



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/672,414

09/26/2003

Scott Thomas Loughran

9369

8429

27752 7590 01/27/2010
THE PROCTER & GAMBLE COMPANY
Global Legal Department - IP
Sycamore Building - 4th Floor
299 East Sixth Street
CINCINNATI, OH 45202

EXAMINER

GHALI, ISIS A D

ART UNIT

PAPER NUMBER

1611

MAIL DATE

DELIVERY MODE

01/27/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/672,414	Applicant(s) LOUGHRAN ET AL.	
	Examiner Isis A. Ghali	Art Unit 1611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 November 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 7-9, 19 and 20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 7-9, 19-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The receipt is acknowledged of applicants' amendment filed 11/06/2009.

Claims 1-3, 7-9, and 19-20 are pending and included in the prosecution.

The following rejection has been overcome by virtue of applicants' amendment and remarks:

The rejection of claims 1-3, 7-9 and 19-20 under 35 U.S.C. 112, second paragraph as being indefinite.

The following rejections have been discussed in details in the previous office action, and are maintained for reasons of record:

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of

the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 1-3, 7-9, 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,221,211 ('211), IDS 03/15/2004, combined with WO 96/32248 ('248), IDS 03/15/2004, and US 6,601,705 ('705), currently provided.

US '211 teaches multi-ply tissue product containing indicia to indicate the presence of some unique ingredients within the tissue product (abstract). The tissue comprises more than one fibrous plies that are glued together, i.e. attached by adhesive (col.1, lines 39-45; col.2, lines 34-41). The reference disclosed facial and bath tissue and the indicia are coloring or printing on the internal ply surface, i.e. contacting the glue (col.1, lines 20-30). The indicia are color other than white or decorative pattern (col.2, lines 13-23). The indicia include ingredients such as emollient, moisturizers, softening agent, menthol (aromatherapy), cleansing agent and fragrance (col.2, lines 42-44, 53-58; col.4, lines 59-64). The article is dry.

Although US '211 teaches non-verbal cues, however, the reference does not specifically teach embossment of the plies, or packaging of the product as instantly claimed by claim 1.

WO '248 teaches multiply absorbent article with pigmented adhesive positioned between two plies that is formed of paper, i.e. cellulosic fibers (abstract; page 4, lines 5-15; page 6, lines 310, 26). The plies are embossed in regular decorative pattern creating striking visual effect that will be appealing to the consumer (page 3, lines 1-22; page 6, lines 1-11).

US '705 teaches package for personal care article that is intuitive for selecting the proper product and ensures that the right article will be taken home (abstract; col.2, lines 40-45). The package has graphic that has distinctive color, and has a window revealing portion of the product and its performance characteristics including distinguishing trait, quality, or properties of the article (col.2, lines 55-57; col.4, lines 53-55). The personal care article can be fibrous article (col.5, lines 24-30, 50-55).

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to provide multi-ply tissue product having non-verbal cue as taught by US '211, and further add embossment to the plies of the tissue as taught by WO '248. One would have been motivated to do so because WO '248 teaches that embossment provides decorative pattern and creates striking visual effect that is appealing to the consumer. One would reasonably expect formulating multi-ply tissue product having embossment that provides decorative pattern and creates striking visual effect that is appealing to the consumer.

Additionally, one having ordinary skill in the art at the time of the invention would have further packaged the embossed multi-ply tissue taught by the combination of US '211 and WO '248 in a package that reveals the characteristics of the tissue by graphic

Art Unit: 1611

or through a window as taught by US '705. One would have been motivated to do so because US '705 teaches that such a package is intuitive for selecting the proper product and ensures that the right article will be taken home. One would reasonably expect formulating multi-ply tissue product having embossment and packaged in a package that reveals the characteristics of the enclosed tissue ensure that customer will select the proper product to take home.

Although US '211 teaches active agents included in the fibrous product such as emollient, moisturizers, cleansing agent and softening agent, however, US '211 does not explicitly teach the specific ingredients as claimed in claims 7-9, or the package of the product as claimed in claim 1.

US '211 teaches emollient, moisturizers, cleansing agent and softening agent that encompass all chamomile, aloe and vitamin E, and one having ordinary skill in the art at the time of the invention would have selected the specific ingredient according to the specific intended use, motivated by personal individual needs and the knowledge of the pharmaceutical art.

Regarding claim 20, the combination of the prior art teaches communicating the article before use, i.e. in the dry state, and applicants failed to show unexpected results of communicating the article when it is wet.

Response to Arguments

4. Applicant's arguments filed 11/06/2009 have been fully considered but they are not persuasive. Applicants argue that Hollenberg combined with KC and Molina fails to

teach each and every element of claim 1 as amended, because the combination fails to teach an embossed tissue product that is housed within a package that comprises a non-verbal cue that communicates the embossment of the fibrous structure product and the ingredient of the fibrous structure product. Applicants argue that Molina's graphic (a color) does not communicate any visual property of its product, let alone any embossment on its product, nor does it communicate an ingredient within its product. Claims 2-3, 7-9, and 19-20, which depend from claim 1, are not rendered obvious over Hollenberg combined with KC and Molina.

In response to this argument, applicants' attention is drawn to scope of the present claim 1 that is directed to product, and all the elements of the product are disclosed by the combination of the references. US '211 teaches facial and bath tissue comprising indicia that are colored other than white and comprises more than one fibrous plies that are glued together, i.e. adhere with adhesive. US '211 further teaches active ingredient in the indicia of the facial tissue as required by claim 1. WO '248 teaches that embossment provides decorative pattern and creates striking visual effect that is appealing to the consumer. Embossment taught by WO '248 is non-verbal cue. Therefore, combination of US 211 and WO '248 teaches the embossment. US '705 teaches a package that is intuitive for selecting the proper product and ensures that the right article will be taken home. Therefore, the combination of US 211, WO '248 and US '705 teaches packaged embossed facial tissue. Regarding communication of the non-verbal cue to the user, applicants define by specification and the claims that "non-verbal" is visual, and define "visual" as "color, text, structure or pictorial element", and

the combination of the references teach color and embossment, which reads on texture. Therefore the functional limitation of the claims is met. In any event, this limitation is directed to the intended use of the product, and does not impart patentability to product claims.

The limitations of the dependent claims 2-3, 7-9, and 19-20 are also taught by the combination of the references, as set forth in this office action.

Therefore, present invention as a whole is taught by the combined teachings of the references. It is well established that the claims are given the broadest interpretation during examination. A conclusion of obviousness under 35 U.S.C. 103 (a) does not require absolute predictability, only a reasonable expectation of success; and references are evaluated by what they suggest to one versed in the art, rather than by their specific disclosure. *In re Bozek*, 163 USPQ 545 (CCPA 1969). In the light of the foregoing discussion, the Examiner's ultimate legal conclusion is that the subject matter as a whole as defined by the claims would have been obvious within the meaning of 35 U.S.C. 103 (a). It has been held "When a patent simply arranges old elements with each performing the same function it had been known to perform and yields no more than one would expect from such an arrangement, the combination is obvious." *KSR Int '1 Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 1740 (2007) (quoting *Sakraida v. AG Pro, Inc.*, 425 U.S. 273,282 (1976)). "When the question is whether a patent claiming the combination of elements of prior art is obvious," the relevant question is "whether the improvement is more than the predictable use of prior art elements according to their established functions."

5. Claims 1-3, 7-9, 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,221,211 ('211), IDS 03/15/2004, combined with GB 2255745 ('745), IDS 07/27/2005, and US 6,601,705 ('705), currently provided.

US '211 teaches multi-ply tissue product containing indicia to indicate the presence of some unique ingredients within the tissue product (abstract). The tissue comprises more than one fibrous plies that are glued together, i.e. attached by adhesive (col.1, lines 39-45; col.2, lines 34-41). The reference disclosed facial and bath tissue and the indicia are coloring or printing on the internal ply surface, i.e. contacting the glue (col.1, lines 20-30). The indicia are color other than white or decorative pattern (col.2, lines 13-23). The indicia include ingredients such as emollient, moisturizers, softening agent, menthol (aromatherapy), cleansing agent and fragrance (col.2, lines 42-44, 53-58; col.4, lines 59-64). The article is dry.

Although US '211 teaches non-verbal cues, however, the reference does not specifically teach embossment of the plies, or packaging of the product as instantly claimed by claim 1.

GB '745 teaches paper laminate comprising two sheets that are attached by patterned embossment and by colored adhesive (abstract; page 2, lines 1-5, 14-19; page 3, lines 30-34; page 4, lines 12-14; page 5, lines 30-35). The paper laminate is safe, and meanwhile decorative (page 6, lines 8-26).

US '705 teaches package for personal care article that is intuitive for selecting the proper product and ensures that the right article will be taken home (abstract; col.2,

lines 40-45). The package has graphic that has distinctive color, and has a window revealing portion of the product and its performance characteristics including distinguishing trait, quality, or properties of the article (col.2, lines 55-57; col.4, lines 53-55). The personal care article can be fibrous article (col.5, lines 24-30, 50-55).

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to provide multi-ply tissue product having non-verbal cue as taught by US '211, and further add embossment to the plies of the tissue as taught by GB '745. One would have been motivated to do so because GB '745 teaches that embossment provides safe decorative pattern. One would reasonably expect formulating multi-ply tissue product having embossment that provides decorative pattern and meanwhile is safe to the consumer.

Additionally, one having ordinary skill in the art at the time of the invention would have further packaged the embossed multi-ply tissue taught by the combination of US '211 and GB '745 in a package that reveals the characteristics of the tissue by graphic or through a window as taught by US '705. One would have been motivated to do so because US '705 teaches that such a package is intuitive for selecting the proper product and ensures that the right article will be taken home. One would reasonably expect formulating multi-ply tissue product having embossment and packaged in a package that reveals the characteristics of the enclosed tissue ensure that customer will select the proper product to take home.

Although US '211 teaches active agents included in the fibrous product such as emollient, moisturizers, cleansing agent and softening agent, however, US '211 does

not explicitly teach the specific ingredients as claimed in claims 7-9, or the package of the product as claimed in claim 1.

US '211 teaches emollient, moisturizers, cleansing agent and softening agent that encompass all chamomile, aloe and vitamin E, and one having ordinary skill in the art at the time of the invention would have selected the specific ingredient according to the specific intended use, motivated by personal individual needs and the knowledge of the pharmaceutical art.

Regarding claim 20, the combination of the prior art teaches communicating the article before use, i.e. in the dry state, and applicants failed to show unexpected results of communicating the article when it is wet.

Response to Arguments

6. Applicant's arguments filed 11/06/2009 have been fully considered but they are not persuasive. Applicants argue that Hollenberg combined with Kent and Molina fails to teach each and every element of Claim 1 as amended, because Hollenberg combined with Kent and Molina fails to teach an embossed tissue product that is housed within a package that comprises a non-verbal cue that communicates the embossment of the fibrous structure product and the ingredient of the fibrous structure product. Applicants argue that Molina's graphic (a color) does not communicate any visual property of its product, let alone any embossment on its product, nor does it communicate an ingredient within its product. Applicants argue that claims 2-3, 7-9, and 19-20, which depend from claim 1, are not rendered obvious over Hollenberg combined with Kent and Molina.

In response to this argument, applicants' attention is drawn to scope of the present claim 1 that is directed to product, and all the elements of the product are disclosed by the combination of the references. US '211 teaches facial and bath tissue comprising indicia that are colored other than white and comprises more than one fibrous plies that are glued together, i.e. adhere with adhesive. US '211 further teaches active ingredient in the indicia of the facial tissue as required by claim 1. GB '745 teaches that embossment provides safe decorative pattern. Embossment taught by GB '745 is non-verbal cue. Therefore, combination of US 211 and GB '745 teaches the embossment. US '705 teaches a package that is intuitive for selecting the proper product and ensures that the right article will be taken home. Therefore, the combination of US 211, GB '745 and US '705 teaches packaged embossed facial tissue. Regarding communication of the non-verbal cue to the user, applicants define by specification and the claims that "non-verbal" is visual, and define "visual" as "color, text, structure or pictorial element", and the combination of the references teach color and embossment, which reads on texture. Therefore the functional limitation of the claims is met. In any event, this limitation is directed to the intended use of the product, and does not impart patentability to product claims.

The limitations of the dependent claims 2-3, 7-9, and 19-20 are also taught by the combination of the references, as set forth in this office action.

Therefore, present invention as a whole is taught by the combined teachings of the references. It is well established that the claims are given the broadest interpretation during examination. A conclusion of obviousness under 35 U.S.C. 103 (a) does not

Art Unit: 1611

require absolute predictability, only a reasonable expectation of success; and references are evaluated by what they suggest to one versed in the art, rather than by their specific disclosure. *In re Bozek*, 163 USPQ 545 (CCPA 1969). In the light of the foregoing discussion, the Examiner's ultimate legal conclusion is that the subject matter as a whole as defined by the claims would have been obvious within the meaning of 35 U.S.C. 103 (a). It has been held "When a patent simply arranges old elements with each performing the same function it had been known to perform and yields no more than one would expect from such an arrangement, the combination is obvious." *KSR Int '1 Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 1740 (2007) (quoting *Sakraida v. AG Pro, Inc.*, 425 U.S. 273,282 (1976)). "When the question is whether a patent claiming the combination of elements of prior art is obvious," the relevant question is "whether the improvement is more than the predictable use of prior art elements according to their established functions."

7. Claims 1-3, 7-9, 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,221,211 ('211) combined with US 4,325,768 ('768) and US 6,601,705 ('705).

US '211 teaches multi-ply tissue product containing indicia to indicate the presence of some unique ingredients within the tissue product (abstract). The tissue comprises more than one fibrous plies that are glued together, i.e. attached by adhesive (col.1, lines 39-45; col.2, lines 34-41). The reference disclosed facial and bath tissue and the indicia are coloring or printing on the internal ply surface, i.e. contacting the glue

(col.1, lines 20-30). The indicia are color other than white or decorative pattern (col.2, lines 13-23). The indicia include ingredients such as emollient, moisturizers, softening agent, menthol (aromatherapy), cleansing agent and fragrance (col.2, lines 42-44, 53-58; col.4, lines 59-64). The article is dry.

Although US '211 teaches non-verbal cues, however, the reference does not specifically teach embossment of the plies, or packaging of the product as instantly claimed by claim 1.

US '768 teaches laminated creped fibrous web material with embossed pattern i.e. non-verbal cue (abstract). Embossment provides the desired bulk and aesthetic appearance of the web (col.4, lines 3-4, 14-16).

US '705 teaches package for personal care article that is intuitive for selecting the proper product and ensures that the right article will be taken home (abstract; col.2, lines 40-45). The package has graphic that has distinctive color, and has a window revealing portion of the product and its performance characteristics including distinguishing trait, quality, or properties of the article (col.2, lines 55-57; col.4, lines 53-55). The personal care article can be fibrous article (col.5, lines 24-30, 50-55).

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to provide multi-ply tissue product having non-verbal cue as disclosed by US '211, and further add embossment to the plies as disclosed by US '768. One would have been motivated to do so because US '768 teaches that such embossment provides the desired bulk and aesthetic appearance of the product. One

Art Unit: 1611

would reasonably expect formulating multi-ply tissue product having non-verbal cue in form of embossment that provides bulk and aesthetic appearance to the product.

Additionally, one having ordinary skill in the art at the time of the invention would have further packaged the embossed multi-ply tissue taught by the combination of US '211 and US '768 in a package that reveals the characteristics of the tissue by graphic or through a window as taught by US '705. One would have been motivated to do so because US '705 teaches that such a package is intuitive for selecting the proper product and ensures that the right article will be taken home. One would reasonably expect formulating multi-ply tissue product having embossment and packaged in a package that reveals the characteristics of the enclosed tissue ensure that customer will select the proper product to take home.

Although US '211 teaches active agents included in the fibrous product such as emollient, moisturizers, cleansing agent and softening agent, however, US '211 does not explicitly teach the specific ingredients as claimed in claims 7-9, or the package of the product as claimed in claim 1.

US '211 teaches emollient, moisturizers, cleansing agent and softening agent that encompass all chamomile, aloe and vitamin E, and one having ordinary skill in the art at the time of the invention would have selected the specific ingredient according to the specific intended use, motivated by personal individual needs and the knowledge of the pharmaceutical art.

Regarding claim 20, the combination of the prior art teaches communicating the article before use, i.e. in the dry state, and applicants failed to show unexpected results of communicating the article when it is wet.

Response to Arguments

8. Applicant's arguments filed 11/06/2009 have been fully considered but they are not persuasive. Applicants argue that Hollenberg combined with Schulz and Molina fails to teach each and every element of claim 1 as amended, because Hollenberg combined with Schulz and Molina fails to teach an embossed tissue product that is housed within a package that comprises a non-verbal cue that communicates the embossment of the fibrous structure product and the ingredient of the fibrous structure product. Applicants submit that Molina's graphic (a color) does not communicate any visual property of its product, let alone any embossment on its product, nor does it communicate an ingredient within its product. Applicants argue that claims 2-3, 7-9, and 19-20, which depend from claim 1, are not rendered obvious over Hollenberg combined with Schulz and Molina.

In response to this argument, applicants' attention is drawn to scope of the present claim 1 that is directed to product, and all the elements of the product are disclosed by the combination of the references. US '211 teaches facial and bath tissue comprising indicia that are colored other than white and comprises more than one fibrous plies that are glued together, i.e. adhere with adhesive. US '211 further teaches active ingredient in the indicia of the facial tissue as required by claim 1. US '768 teaches that such embossment provides the desired bulk and aesthetic appearance of

Art Unit: 1611

the product. Embossment taught by US '768 is non-verbal cue. Therefore, combination of US 211 and US '768 teaches the embossment. US '705 teaches a package that is intuitive for selecting the proper product and ensures that the right article will be taken home. Therefore, the combination of US 211, US '768 and US '705 teaches packaged embossed facial tissue. Regarding communication of the non-verbal cue to the user, applicants define by specification and the claims that "non-verbal" is visual, and define "visual" as "color, text, structure or pictorial element", and the combination of the references teach color and embossment, which reads on texture. Therefore the functional limitation of the claims is met. In any event, this limitation is directed to the intended use of the product, and does not impart patentability to product claims.

The limitations of the dependent claims 2-3, 7-9, and 19-20 are also taught by the combination of the references, as set forth in this office action.

Therefore, present invention as a whole is taught by the combined teachings of the references. It is well established that the claims are given the broadest interpretation during examination. A conclusion of obviousness under 35 U.S.C. 103 (a) does not require absolute predictability, only a reasonable expectation of success; and references are evaluated by what they suggest to one versed in the art, rather than by their specific disclosure. *In re Bozek*, 163 USPQ 545 (CCPA 1969). In the light of the foregoing discussion, the Examiner's ultimate legal conclusion is that the subject matter defined by the claims would have been obvious within the meaning of 35 U.S.C. 103 (a). It has been held "When a patent simply arranges old elements with each performing the same function it had been known to perform and yields no more than one would

expect from such an arrangement, the combination is obvious." *KSR Int '1 Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 1740 (2007) (quoting *Sakraida v. AG Pro, Inc.*, 425 U.S. 273,282 (1976)). "When the question is whether a patent claiming the combination of elements of prior art is obvious," the relevant question is "whether the improvement is more than the predictable use of prior art elements according to their established functions."

9. Claims 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over any of the combination of US '211, WO '248 and US '705, the combination of US '211, GB '745 and US '705, and the combination of US '211, US '768 and US '705, each combination is further in view of US 6,905,697 ('697).

The combined teachings of the references are previously discussed as set forth in this office action.

Although US '211 teaches active agents included in the fibrous product such as emollient, moisturizers, cleansing agent and softening agent, however, US '211 does not explicitly teach chamomile as claimed by claim 7, aloe lotion as claimed by claim 8 or vitamin E as claimed by claim 9.

US '697 teaches fibrous web, in particular tissue web comprising lotion comprising cosmetic agent (abstract). Preferred cosmetic agents include aloe vera, chamomile, and vitamin E (col.12, lines 59-64; col.13, line 7). The web feels pleasant to the skin and capable of transferring active agents to the skin of the user (col.3, lines 55-57). The reference teaches multiply tissue web and embossing can be used for

Art Unit: 1611

generating ply adhesion in the multiply tissue, and further teaches that the tissues are packaged (col.14, lines 56-65; col.17, lines 5-15).

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to provide packaged multi-ply fibrous tissue product comprising active agent and having non-verbal cue in form of embossment as taught by any of: the combination of US '211, WO '248 and US '705, the combination of US '211, GB '745 and US '705, and the combination of US '211, US '768 and US '705, and further replace the active agent with chamomile, aloe vera lotion or vitamin E as taught by US '697. One would have been motivated to do so because US '697 teaches such agents as preferred cosmetic agent to be delivered by fibrous web that has pleasant feel to the skin. One would reasonably expect formulating packaged multi-ply tissue product having non-verbal cue in form of embossment and comprising chamomile, aloe lotion or vitamin E wherein the product provides pleasant feel and simultaneously deliver beneficial necessary cosmetic to the skin of the user.

Response to Arguments

10. Applicant's arguments filed 11/06/2009 have been fully considered but they are not persuasive. Applicants argue that claims 7-9, which depend from claim 1, are not rendered obvious over any combination of Hollenberg, KC, Molina, and Schulz, all discussed above, and further in view of Baummoller for the same reasons that claim 1 is not rendered obvious over Hollenberg, KC, Molina, and Schulz.

In response to this argument, it respectfully argued that claim 1 is obvious over the combination of the references as set forth in this office action. Claim 7-9 are obvious because their limitations are taught by the references in their different combinations.

Conclusion

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Isis A. Ghali whose telephone number is (571) 272-0595. The examiner can normally be reached on Monday-Thursday, 6:30 AM to 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sharmila Landau can be reached on (571) 272-0614. The fax phone

Art Unit: 1611

number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Isis A Ghali/
Primary Examiner, Art Unit 1611

IG